Contract for Computerized Maintenance Management System Software and Related Services

Between

City of Durham, North Carolina and NEXGEN Utility Management Inc.

EXHIBIT A

SCOPE OF SERVICES AND SCHEDULE

NEXGEN Utility Management Inc., ("NEXGEN") services for NEXGEN AM computerized maintenance management system (CMMS) software and related implementation services to the City of Durham ("City") are outlined in the Request for Proposals prepared by the City in June 2012, which is Attachment 1 to this Exhibit. The scope of services for this Contract is further defined herein:

SCOPE OF SERVICES

1. WORKPLANNING

NEXGEN shall prepare and submit a draft Project Plan, Testing Plan and Training Plan for the project, for City review. The Project Plan shall define the tasks, milestones, schedule, deliverables, communication and staffing of the project. The Testing Plan shall define system acceptance testing procedures based on the functional requirements included in Attachment 1. The Training Plan shall define the user groups, course durations, course descriptions, and any course prerequisites. A detailed schedule, in Microsoft Project or Primavera format, shall be included with each Plan, proposing appropriate milestones. NEXGEN will review the draft plans with City staff in a conference call approximately two weeks following submittal, and receive City's input. NEXGEN will revise the Plans based on input receive, and submit the revised plans for City's written acceptance.

NEXGEN shall provide an electronically submitted, biweekly report of project status to City staff, and shall participate in progress meetings, either in person or by telephone, on at least a monthly basis or in accordance with the accepted Project Plan.

Deliverables. Draft and Final Project Plan, Testing Plan, and Training Plan.

2. SOFTWARE LICENSES

NEXGEN shall provide NEXGEN AM CMMS software to City (latest version as of implementation date), for thirty-five (35) concurrent locally-hosted licenses. The licensing arrangement shall accommodate creation of unlimited user profiles eligible for the concurrent licenses. All licenses shall include desktop and mobile login options for no additional costs. City shall be eligible for purchase of additional concurrent locally-hosted licenses for a rate of $2,000 per license. Within one year of the contract approval date, the City has the option to upgrade to the unlimited site license for Department of Water Management for an additional fee of $30,000, assuming that the City has paid for the $70,000 (35 users x $2,000/user). Compensation terms for software licensing shall be as provided in Exhibit B, *Compensation*.

Maintenance or support is provided assuming the City pays the annual maintenance and support fees in advance. Any new versions or modules of software provided to City are automatically licensed according to provisions of this Agreement. The amount of the annual maintenance and support fee is defined in Exhibit B, *Compensation*. The initial maintenance and support fee is due upon successful completion of final acceptance testing of the NEXGEN AM CMMS software by the City.

NEXGEN shall set up City's NEXGEN AM CMMS software as Software as Service on NEXGEN servers for interim configuration during implementation. NEXGEN shall install NEXGEN AM CMMS software, running on SQL Server, onto City servers prior to deployment, in accordance with City's requirements for server-based software installations.

Other software license conditions and restrictions applicable to this Contract are stipulated below:

2.1. Definitions

"Program(s)" means the object code version of the software programs and related documentation provided by NEXGEN to City at any time under terms of this agreement.

"Users" means the number of users (i.e., the number of users using the Program at one time) permitted to use a Program.

"Domains" means the number of individual database setups that can be accessed by a Program.

2.2. License Grant

    c.   License of Program(s). Subject to the terms and conditions of this Agreement NEXGEN grants City a nonexclusive, nontransferable license to use the object code version of the Program(s) during the term of this Contract solely for the purposes of evaluation or providing specific services in accordance with this Contract, however, that the number of concurrent users of each Program shall not exceed the number of Seats for each such Program set forth above.

    a.   Limited Grant. Except as expressly set forth in this Section, NEXGEN grants and Licensee receives no right, title or interest in or to the Program(s) or any other deliverables provided by NEXGEN in connection with this Agreement.

2.3. License Restrictions

    a.   No Reverse Engineering. City will not disassemble, decompile, reverse analyze, or reverse engineer the Program(s).

    b.   No Modification. City will not modify the Program(s).

    c.   No Copying. City will not copy the Program(s), in whole or in part.

    d.   No Third Party Use. City will not use the Program(s) in any manner to provide services to any third parties.

2.4. Proprietary Rights

    a.   NEXGEN Property. The Program(s), in whole and in part and all copies thereof, are and will remain the sole and exclusive property of NEXGEN.

    b.   Proprietary Notices. City will not delete or alter any copyright, trademark, and other proprietary rights notices of NEXGEN and its licensors appearing on the Program(s). City agrees to reproduce such notices on all copies it makes of the Program(s).

2.5. Warranties

The Program(s) are provided "as-is." If the City is not satisfied with the software performance within 6 months from the date of installation, NEXGEN will refund the software cost (not including cost of services, as defined in Exhibit B) in its entirety.

2.6. Confidential Information

    a.   Definition. "Trade Secrets or Confidential Information" shall apply to any Trade Secrets disclosed to the City during the process leading to the parties entering into this Contract and shall have the same meaning given to "Confidential Information" under N.C. General Statute § 132-1.2. NEXGEN asserts that the following constitutes Confidential Information: (i) the Program(s), including, but not limited to their software source code, and any related documentation or technical or design information related to the Program(s); (ii) the business or technical information of NEXGEN, including but not limited to any information relating to NEXGEN's product plans, designs, costs, product prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how; (iii) any information designated by NEXGEN as "confidential" or "proprietary" or which, under the circumstances taken as a whole, would reasonably be deemed to be confidential; and (iv) the complies with the definition of "Confidential Information" pursuant to the North Carolina Public Records Act.

    b.   Confidential Information will not include information that: (i) is in or enters the public domain without City's breach of this Agreement; (ii) City receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation; or (iii) City develops independently, which it can prove with clear and convincing written evidence.

    c.   Confidentiality Obligations. Licensee agrees to take all measures reasonably required in order to maintain the confidentiality of all Confidential Information in its possession or control, which will in no event be less than the measures Licensee uses to maintain the confidentiality of its own information of equal importance.

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Exhibit A – Scope of Services   A-2

2.7. Term and Termination

a. Term. The software license shall be for the period of one year from the effective date above and shall automatically renew for one year periods. This software license may be terminated by NEXGEN at any time at its sole discretion if City breaches any material term or condition of the software license as defined in this Section.

b. Effect of Termination. On termination of this Agreement, City will immediately return to NEXGEN or (at NEXGEN's request) destroy all copies of the Program(s) in its possession or control, and an officer of City will certify to NEXGEN in writing that it has done so.

c. Survival. The provisions of Sections 2.4 (Proprietary Rights) and 2.6 (Confidential Information) will survive termination of this Agreement for any reason.

d. Nonexclusive Remedy. The exercise by NEXGEN of any remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

Deliverables. Software as Service login during implementation phase. Software loaded on City's servers. Software updates in accordance with the annual maintenance and support agreement.

3. USER REQUIREMENTS AND BUSINESS PROCESSES.

3.1. NEXGEN will review existing business process descriptions, and functional requirements for the CMMS software documented in the CMMS request for proposals (RFP).

3.2. NEXGEN will facilitate four meetings with City's CMMS end users representing operation and maintenance of the Lake Michie and Little River water supply reservoirs, Brown Water Treatment Plant (WTP) and Williams WTP, Huckleberry finished water elevated storage tank, North Durham Water Reclamation Facility (WRF), South Durham WRF and Department of Water Management facility at 1600 Mist Lake Drive, in small groups based on work function or facility location, to determine whether revisions to the documented functional requirements are needed to reflect current user needs.

3.3. NEXGEN will document the City's CMMS functional requirements in a memorandum to be submitted to City for review and comment. Following incorporation of City comments, NEXGEN will resubmit the functional requirements memorandum for City's written acceptance.

3.4. NEXGEN will meet with City staff to determine whether revisions to the documented business processes are required to support the CMMS software functionality and City's functional requirements.

3.5. NEXGEN will prepare revisions to the Department of Water Management business process mapping documents relating to CMMS functions for work at the facilities identified in Task 3.2 above. NEXGEN will submit the business process maps for City review and comment. Following incorporation of City comments, NEXGEN will resubmit the business process maps for City's written acceptance.

Deliverables. Draft and final technical memoranda summarizing the City's CMMS functional requirements and mapped business processes.

4. DATA MIGRATION.

4.1 NEXGEN will migrate legacy data provided by City using the data import template provided by NEXGEN, into NEXGEN AM. NEXGEN will migrate work history, asset inventory, warehouse inventory and resources. City's existing asset inventory is currently maintained in multiple electronic database and spreadsheet sources.

4.2 NEXGEN will import maintenance plans prepared by and provided by City into NEXGEN AM.

Deliverables. Populated legacy work history, asset inventory, warehouse inventory, resources, and maintenance plan data into NEXGEN AM.

5. CONFIGURE AND TEST.

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Exhibit A – Scope of Services   A-3

5.1. NEXGEN will meet with City's staff, both in person and remotely through conference calls, to obtain input from City staff sufficient to accurately configure the NEXGEN AM to support the identified business processes and asset management best practices. Configuration elements shall include, but are not limited to, screens, menus, reports and user profiles.

5.2. NEXGEN will review existing configurations from City's current practices, and migrate as appropriate, in consultation with City staff. City staff will test configurations and advise NEXGEN regarding improvements which are required to achieve acceptance by the City.

5.3. NEXGEN will optimize configurations based on City's recommendations.

5.4. NEXGEN will provide City, at a minimum, with the following custom and standard reports:

CMMS Report Table

Report Description	Report Objective
Work Activity by Maintenance Crew	General understanding of work performed by crews
Incomplete Work Orders	Raise profile of incomplete work, to encourage prompt completion
Work Backlog Report	Document average response time from new work order creation to work-in-progress
Total work performed (by asset type, problem/ activity code, facility)	General understanding of work performed
Work order cost detail (by facility)	To raise profile of cost to maintain assets
Asset maintenance cost (by asset)	To raise profile of assets with high cost to maintain
Work order frequency by asset	Determine assets with chronic maintenance problems
Work order frequency by Problem Code	Determine chronic maintenance problem types
Mean time between asset failure	Monitor trends with assets whose time between failures is decreasing
Treatment Plant work orders by system	Monitor trends of treatment plant maintenance issues by system
Lift Station work orders by lift station number and name	Monitor trends of wastewater lift station maintenance issues by station
Inventory Parts Transactions, by Facility & Crew	Monitor parts value in transactions, trends in parts use
Asset condition summary	Summarize observed condition for DWM assets

Deliverables. Optimized NEXGEN AM CMMS configurations and reports.

6. MOBILE APPLICATION IMPLEMENTATION.

6.1. City will procure current-model Apple iPad tablet computing devices; NEXGEN will install and test the NEXGEN AM mobile application on up to 35 tablet devices. City shall be responsible for obtaining wireless service accounts for the devices.

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Exhibit A – Scope of Services   A-4

6.2.   In the initial phase of mobile implementation of NEXGEN AM CMMS, NEXGEN will install and test the NEXGEN AM mobile application on up to 35 laptop computers (Windows operating system) to be provided by the City of Durham. These may be laptop computers in current use by the City, but will meet the minimum hardware and software specifications of NEXGEN to support the NEXGEN AM mobile application.

6.3.   NEXGEN AM mobile application shall provide functionality acceptable to the City to create assets, create/assign/complete/close service requests and work orders, attach images and other documents to an asset or work order, assign resources (parts, labor, etc.) to a work order, and related NEXGEN AM work functions. The NEXGEN AM mobile application shall provide for synchronization with the NEXGEN AM database and data caching on occasions where wireless connectivity

6.4.   NEXGEN will test the configuration and performance of the field devices, and provide hands-on training to field users with mobile devices in accordance with Task 7 and the accepted Training Plan.

Deliverables. NEXGEN will install and test NEXGEN AM mobile application on Apple iPad tablet computer mobile devices and laptop computers provided City of Durham implemented with NEXGEN AM mobile application

7.   TRAINING & DEPLOYMENT.

7.1.   NEXGEN shall conduct training at the City's facilities for City staff who will administer and use the NEXGEN AM CMMS, in accordance with the accepted Training Plan (Task 1). Training classes shall be designed for a maximum class size of 10 students in a hands-on environment. NEXGEN shall coordinate with City to schedule use of the City's facilities to conduct required training.

7.2   NEXGEN shall provide separate training classes targeted to four types of users: system administrators, maintenance supervisors and managers, maintenance and operations staff, and planner/schedulers.

–   System administrator training shall address encompass application software administration, software configuration, performance optimization, and application programming interfaces/scripts.

–   Supervisor training shall address workflow management, asset creation, service requests/work order creation, and standard/custom reports and queries.

–   Staff level training shall address workflow management, asset creation, service requests/work order creation, mobile application of the CMMS, and standard reports.

–   Planner/scheduler training shall address workflow management, asset creation, service request creation, and standard/custom reports and queries.

NEXGEN shall structure the implementation schedule so that end-user training is conducted as close as possible to the "go-live" date. The approximate duration of each training class shall be in accordance with the accepted Training Plan. Additional training events shall be provided for system administrators.

For the purposes of developing the Training Plan and training schedule, the approximate number of City staff requiring training is summarized as follows:

- System administrators – 3
- Supervisors and managers – 12
- Maintenance and operations staff:
    - Plant Engineering and Maintenance – 31
    - Water Supply and Treatment, Wastewater Treatment– 13
- Planners/Schedulers:
    - Plant Engineering and Maintenance - 1
    - Engineering Services and Administration – 6

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Exhibit A – Scope of Services   A-5

7.3   NEXGEN shall provide printed and electronic copies (HTML, PDF format) of training materials and user manuals to each individual trained.

7.4   After the initial training described in Task 7.2, at approximate one month intervals following "go-live", or as otherwise scheduled in consultation with City staff, NEXGEN shall provide up to 40 hours of software refresher training for employees, in accordance with the accepted Training Plan.

7.5   NEXGEN shall provide support services to City during and after the deployment of NEXGEN AM. At the time of moving the system from a test environment to a production, "live" environment, NEXGEN shall deploy at least one project team member to be at City's facilities for five days or in accordance with the approved Project Plan and Testing Plan. The NEXGEN project team member shall have a thorough understanding of the City's software configuration, and must have had significant involvement throughout the project.

7.6   Final acceptance of the NEXGEN AM CMMS implementation by City will occur in accordance with the accepted Project Plan and Testing Plan, no earlier than four weeks following move of NEXGEN AM to a production, "live" environment. At the time of final acceptance, City will provide written concurrence that the NEXGEN AM system meets project requirements as defined in the Project Plan and Test Plan. NEXGEN may invoice for the initial annual maintenance and support fee once written final acceptance has been provided by the City.

7.7   Post Roll-Out Training after the go live date is scheduled on a monthly basis for six months.

        Month 1 – Two 4-hour web training/configuration sessions

        Month 2 – Two 4-hour web training/configuration sessions

        Month 3 – Two 8-hour on-site training configuration sessions (2 staff)

        Month 4 - Two 4-hour web training/configuration sessions

        Month 5 - Two 4-hour web training/configuration sessions

        Month 6 - Two 4-hour web training/configuration sessions

7.8   As part of the services paid by City under the annual maintenance and support fee, NEXGEN must provide post-"go live" ongoing maintenance support to the City including help desk support, CMMS system patches and regular CMMS system upgrades, as well as delivery of custom reports as requested by City at no additional cost.

Deliverables. Electronic copies of all training documentation.

SCHEDULE

The scope of services identified in this Exhibit shall be completed by NEXGEN within approximately five (5) months after receipt of notice to proceed, in accordance with the following milestones:

Task	Anticipated Completion, in Weeks After Notice to Proceed (NTP)
Notice to Proceed	0
Task 1- Workplanning	2
Task 2 - Software Installation	4
Task 3 - User Requirements & Business Processes	4
Task 4 - Data Migration	8
Task 5 – Configuration and Testing (Server and Desktop Installations)	9
Task 6 - Mobile Application Implementation	14
Task 7 - Training and Deployment	18
Final Acceptance	22

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Exhibit A – Scope of Services   A-6

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EXHIBIT B

COMPENSATION

For services to be performed under this Contract, the City shall compensate NEXGEN on a lump sum basis, time and expense basis, or a combination of the two depending on the nature of the task. NEXGEN shall be compensated for satisfactory completion of services in accordance with the Terms of the Contract and the following milestone fee schedule. Compensation for subsequent services, if desired by the City, shall be based on satisfactory negotiations which shall be concluded by a written Amendment to this Contract executed by both City and NEXGEN.

Task	Anticipated Weeks After Notice to Proceed (NTP)	Compensation Basis	Payment Amount
NEXGEN Software Costs	Approximately 2 weeks, or upon Software as Service Setup	Lump Sum	$70,000
Milestone 1: Workplanning, Installation, User Requirements & Business Processes	4	Lump Sum	$38,960
Milestone 2: Data Migration and Configuration	9	Time and Expenses	$56,240
Milestone 3: Training and Deployment (Desktop and Mobile)	18	Lump Sum	$61,200
Annual Software Maintenance and Support Fee for 1st Year	Upon Receipt of Written Final Acceptance from City	Lump Sum	$14,000
TOTAL			**$240,400**

After the first year fee specified above, the Annual Software Maintenance and Support Fee shall be increased by no more than 3 percent each year.

For lump sum tasks, the fee shall be changed only if the scope of services is modified by executed amendment to this Contract. Time-related charges are the total hours worked on the Project by each employee, multiplied by the hourly rate for that employee's job classification. The rates are shown on the Schedule of Hourly Billing Rates included in this Exhibit. Eligible actual expenses will be reimbursed in accordance with the Contract terms.

NEXGEN Schedule of Hourly Billing Rates		
Staff Name	Staff Role	Hourly Rate
Yee	Project Manager	$200
Naik	Implementation Lead	$180
Kaur	Configuration	$160
Various	Developer	$140
Estrella	Engineer	$140

The total amount of this Contract, including lump sum fees, time and materials fees, and other expenses, of $240,400 ($70,000 software + $14,000 annual maintenance/support + $156,400 implementation services) may not be exceeded without a duly executed amendment to this Contract. If NEXGEN believes the cost will exceed the estimate, NEXGEN shall notify Client, including providing a revised cost estimate and/or revised time for completion.

NEXGEN shall submit periodic invoices to City, accompanied by a written progress report and other appropriate documentation the milestones above have been completed, and City shall pay invoices in accordance with Article 5 of

this Contract, *Contractor's Billings to City. Compensation.* Payment shall be based on invoices prepared by NEXGEN based on milestones achieved. If City contests the amount of invoiced services, City shall provide written notice stating the specific reasons the City considers such work not satisfactorily completed.

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Exhibit B – Compensation   B-2